

### **III. REGULATIONS FOR LICENSING ATTENDANT CARE FACILITIES FOR CHILDREN AND YOUTH**

#### **28-4-285 Definitions.**

- (a) "Attendant" means a staff person or volunteer who provides direct supervision of a juvenile.
- (b) "Attendant care" means one-on-one direct supervision of a juvenile who has been taken into custody. Attendant care shall not exceed 24 hours exclusive of weekends and court holidays.
- (c) "Attendant care facility," herein after referred to as the facility, means a boarding home for children at which attendant care is provided.
- (d) "Corporal punishment" means activity directed toward modifying a juvenile's behavior by means of physical contact such as hitting with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, or any similar activity.
- (e) "Juvenile" means a person between the ages of 10 and 18 years of age.
- (f) "License" means a document issued by the Kansas department of health and environment which authorizes a licensee to operate and maintain an attendant care facility.
- (g) "Non-secure facility" means a facility not characterized by the use of physically restricting construction, hardware and procedures.
- (h) "Public agency" means any branch of city, county, or state government.

(Authorized by K.S.A. 65-508; and implementing K.S.A. 65-501, 65-503, and 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

#### **28-4-286. Licensing procedures.**

- (a) Any person, corporation, firm, association or other organization who desires to conduct an attendant care facility shall apply for a license on forms provided by the Kansas department of health and environment. The application shall include a KBI/ SRS child abuse registry form supplied by the Kansas department of health and environment.
- (b) A license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 et seq. and amendments of them and the regulations adopted as required by those statutes, and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments of it.
- (c) The Kansas department of health and environment shall revoke a license or deny any application in any case in which there is a failure to comply with the provisions of the regulations for attendant care.

- (d) A copy of ``regulations for licensing attendant care facilities," provided by the Kansas department of health and environment shall be kept on the premises at all times.

(Authorized by K.S.A. 65-508; and implementing K.S.A 65-501, 65-503, and 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

**28-4-287 Terms of license.**

- (a) The maximum number and age range of juveniles who may be cared for in each living unit shall be specified on the license.
- (b) Each facility license shall be valid only for the licensee and the address appearing on the license. A new application shall be required for each change of ownership, sponsor, or address of the facility.
- (c) Each license shall not give the attendant care facility permission to place children.
- (d) Claims as to specialized services shall not be made unless the facility is staffed and equipped to offer such services.
- (e) Each applicant or licensee shall inform the licensing authority when the application is to be withdrawn or the license is not to be renewed. The Kansas department of health and environment shall notify the applicant or licensee and other appropriate agencies that the facility is considered closed and the license terminated.
- (f)
  - (1) Any applicant or licensee may submit a written request for an exception to a regulation to the Kansas department of health and environment. An exception shall be granted if the secretary determines the exception to be in the best interest of a juvenile, and if statutory requirements are not violated.
  - (2) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

**28-4-288 Administration, personnel and records.**

- (a) Organization. If the facility is operated by a private corporation, the corporation shall be authorized to do business in the state of Kansas.
- (b) Administrative policies.
  - (1) Each facility shall have an organizational chart, and written policies and procedures defining operations and legal responsibilities.
  - (2) Each policy and procedure shall be distributed to staff members as appropriate.
  - (3) A KBI/SRS child abuse registry form shall be completed and submitted to the Kansas department of health and environment within two weeks of the time each new person over 10 years of age resides, works or regularly volunteers in the facility, excluding juveniles placed in care.

- (c) Finances.
  - (1) The facility shall have sufficient finances to ensure licensing compliance and effective services.
  - (2) Juveniles shall not be exploited in campaigns or publicity efforts to raise funds.
  - (3) Insurance. The facility shall be covered by liability and casualty insurance.
- (d) Personnel policies.
  - (1) Each facility shall have written personnel policies including job descriptions that are approved and reviewed annually by licensing staff.
  - (2) A personnel record shall be maintained for each attendant and made available to the attendant on written request.
  - (3) No attendant shall be on duty for more than eight hours.
- (e) Staffing.
  - (1) There shall be an attendant for each juvenile.
  - (2) Each attendant shall be the same sex as the juvenile.
  - (3) Exceptions to this regulation may be requested pursuant to K.A.R. 28-4-287.
- (f) Staff qualifications.
  - (1) Attendants shall be qualified by temperament, emotional maturity, sound judgment and an understanding of children.
  - (2) Each attendant shall:
    - (A) Be 19 years of age or over;
    - (B) have a high school diploma or its equivalent; and
    - (C) have completed a state-approved training program.
- (g) The following individual personnel records shall be kept on each attendant:
  - (1) Job application, including:
    - (A) Identifying information;
    - (B) qualifications; and
    - (C) character and employment references;
  - (2) record of negative TB test;

- (3) a statement signed by attendant that discipline policies have been reviewed and will be followed; and
  - (4) documentation of state-approved training.
- (h) Juvenile records.
  - (1) A register shall be kept of all juveniles with name, birthdate, reason for custody, dates of admission and release, and names and addresses of parents, legal guardian or legal custodian.
  - (2) An admission and release form shall be submitted to the Kansas bureau of investigation upon release of a juvenile, on forms supplied by the bureau.
  - (3) A record shall be kept on each juvenile which shall include:
    - (A) Identifying information;
    - (B) arrest record;
    - (C) record of money and personal property, signed by the juvenile and the attendant;
    - (D) statement signed by the juvenile that the rules and regulations of the facility have been reviewed; and
    - (E) health history checklist.
  - (4) A daily log of each juvenile's behavior shall be maintained with notations regarding special problems while in custody and response of staff to problems.
  - (5) Each improper disclosure of records or information regarding juveniles shall be grounds for revocation or suspension of the license.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.) 28-4-289 Admission policies and procedures.

**28-4-289 Admission policies and procedures.**

- (a) Written admission criteria shall be clearly defined.
- (b) Intake policies.
  - (1) Identifying information shall be obtained to initiate each juvenile's record. This information shall include a description of behavior and obvious physical problems of each juvenile.
  - (2) An arrest record shall accompany each juvenile to the facility. A detention hearing shall be held as designated in the juvenile code.
  - (3) If it is known that the juvenile's parents, guardian or other custodians have not been notified, the facility's staff shall notify such persons of custody.

- (4) Prior to admission, each juvenile shall be searched and items removed that might be used to injure self or others.
  - (5) Upon admission, if a juvenile surrenders money and personal property, a record of each of these properties shall be signed by both the juvenile and the attendant and placed in the juvenile's record. Each refusal to sign shall be documented.
  - (6) A health history checklist shall be completed for each juvenile at the time of admission. Each checklist shall be completed by the person who admits the juvenile, using the forms supplied by the Kansas department of health and environment.
  - (7) Each juvenile shall not be admitted if he or she shows evidence of being seriously ill or injured until examined by a physician.
  - (8) Upon admission, rules and regulations of the facility shall be discussed with each juvenile, and the juvenile shall sign a statement that the rules and regulations have been reviewed.
- (c) Release policies.
- (1) Each release shall be approved by the court of jurisdiction or other designated authority.
  - (2) The facility shall provide release forms to be signed by the person to whom the juvenile is released.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective December 12, 1988.)

**28-4-290 Program.**

- (a) A written plan and daily routine shall be maintained for all juveniles that shall include supervision, meals, rest and sleep, personal hygiene, physical exercise, work, recreation, visitation and communication.
- (b) Supervision.
  - (1) Each juvenile shall be supervised at all times.
  - (2) Activities that would interfere with the care of a juvenile shall not be carried out by an attendant while on duty.
  - (3) Alcohol or non-prescribed controlled substances as defined in K.S.A. 65-4101 and any amendments of it shall not be consumed by any juvenile or attendant while on duty.
  - (4) Smoking shall be confined to designated smoking areas in the facility.
- (c) Food service.

- (1) Each juvenile shall receive nutritious meals and snacks at customary times.
  - (2) Food prepared off premises:
    - (A) Shall be obtained from sources licensed by the Kansas department of health and environment;
    - (B) shall be transported in covered containers; and
    - (C) shall not be allowed to stand.
  - (3) Food prepared on the premises shall be prepared, served and stored in a sanitary manner.
  - (4) Only pasteurized milk and government-inspected meat and fowl shall be used. Powdered milk shall be used for cooking only.
  - (5) Home-canned foods shall not be served in the facility.
- (d) Personal hygiene.
- (1) Each juvenile shall be allowed to bathe and perform bodily functions as necessary.
  - (2) Each juvenile shall be provided soap, toothbrush, toothpaste, other personal care items, and clean, individual bath and face towels.
  - (4) Clothing, if provided, shall be clean and in good condition.
- (e) Each juvenile shall have the opportunity for physical exercise. This activity shall be in an area free of hazards, and outdoors if possible.
- (f) Work.
- (1) Work assignments shall not be used as a substitute for recreation.
  - (2) Each juvenile shall be prohibited from performing duties including, but not limited to:
    - (A) Personal services for staff;
    - (B) cleaning or maintaining areas away from the attendant care facility;
    - (C) substituting for staff; or
    - (D) any work defined as hazardous by the Kansas department of human resources governing child labor.
- (g) Art and craft supplies, books, current magazines, games and other indoor recreational materials and equipment shall be provided for leisure time activities.

(h) Visitation and communication.

- (1) Each facility shall provide juveniles with the opportunity for telephone and visitation contact with parents, legal guardians, and legal representatives.
- (2) Written visitation policies shall be available to each juvenile, parent, legal guardian and legal representative.
- (3) Each juvenile shall not be denied the right to contact the juvenile's attorney or court counselor.

(i) Discipline.

- (1) There shall be a written discipline policy.
- (2) Punishment that is humiliating, frightening or physically harmful to the juvenile shall not be used at any time. The juvenile shall be protected against all forms of neglect, exploitation or degrading forms of punishment.
- (3) Prohibited forms of punishment shall include:
  - (A) Corporal punishment;
  - (B) verbal abuse, threats, or derogatory remarks about the juvenile or the juvenile's family;
  - (C) binding or tying to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle; or
  - (D) deprivation of meals.
- (4) Juveniles shall be permitted to be appropriately clothed at all times.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7- 29-88, July 29, 1988; effective Dec. 12, 1988.)

**28-4-291 (a) Health care policies.**

- (1) Each facility, in consultation with a physician or community health nurse, and using the Kansas department of health and environment health care guidelines as a resource, shall develop written health care guidelines covering the following areas:
  - (A) Care of minor illness, including the use of nonprescription drugs;
  - (B) care of juveniles under the influence of alcohol and drugs; and
  - (C) consultation regarding individual juveniles when indicated.
- (2) Each attendant caring for juveniles shall have first aid training.

- (b) Health care of juveniles.
  - (1) A health checklist provided by the Kansas department of health and environment shall serve as guide to determine if a juvenile is in need of medical care.
  - (2) A physician shall be contacted for any juvenile taking a prescribed medication to prevent interruption of treatment.
  - (C) A physician shall be contacted for a juvenile who has acute symptoms of illness or who has a chronic illness. Reportable communicable diseases shall be reported immediately to the county health officer.
- (c) Health of attendants.
  - (1) Each attendant shall be free of communicable disease and shall be in such a state of health and freedom from physical or emotional handicaps as is necessary to work with children.
  - (2) Each attendant shall present written proof of freedom from active tuberculosis before serving in the facility.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

**28-4-292 Safety procedures.**

- (a) Plans shall be developed for the care of juveniles in disasters such as fires, tornadoes, storms, floods, and civil disorders, as well as occurrences of serious illness or injury to staff or juveniles.
- (b) Each disaster plan shall be posted and followed in an emergency.
- (c) Each incident resulting in the death of or serious injury to any staff member of the facility or juvenile admitted to the facility shall be reported to the Kansas department of health and environment. Each incident involving any juvenile shall be reported to the parent or guardian.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

**28-4-293 Physical plant.**

- (a) Each facility shall be clean and free from safety hazards.
- (b)
  - (1) Any facility may be located in a nonsecure area at a sheriff's office, state police post, detoxification center, community mental health center, local hospital or similar facility which meets all applicable codes.
  - (2) Community resources including but not limited to health services, police protection, and fire protection shall be available to the attendant care facility.
- (c) Inside area.



- (1) Each wall and floor shall be in sound condition and easily cleanable. Floor covering shall be required over concrete slab in contact with the ground. The floors shall not be slippery.
- (2) Each facility shall be limited to ground level and above except basements may be used with fire safety approval. Each room with a floor level more than 30 inches below ground level shall be considered a basement.
- (3) The minimum square footage of free floor space shall be 120 square feet including activity and sleeping areas. Minimum ceiling height shall be 7 ft. 8 inches over 90% of the room.
- (4) Each room occupied by a juvenile shall have a source of natural light.
- (5) Each area used for reading shall have a minimum of 35 foot candles of light.
- (6) Each facility shall have adequate storage space for supplies and equipment.
- (7) A separate bed with a level, flat mattress in good condition and adequate, clean bedding shall be provided for each juvenile.
- (8) Medicines, poisons and firearms shall be inaccessible to juveniles.
- (9) A telephone and emergency telephone numbers shall be readily accessible to the attendant.
- (10) The water supply, whether public or private, shall be from a source approved by the local health department or the Kansas department of health and environment.
- (11) There shall be one toilet, one lavatory and one bathtub or shower available to the facility.
- (12) Cold and hot water shall be supplied to each lavatory, bathtub and shower.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

#### **28-4-294      Transportation.**

Each facility that provides transportation for juveniles shall meet the following requirements:

- (a) Each driver of the vehicle shall hold an operator's license of a type appropriate for the vehicle being used.
- (b) Each transporting vehicle shall be maintained in safe operating condition.
- (c) Each transporting vehicle shall be equipped with an individual seat belt for the driver, each juvenile passenger and each additional passenger. The driver, each juvenile passenger and each additional passenger shall use the seat belts.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)